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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/675,343	09/28/2000	Thomas Vogl	P00,1791	2373
7590	03/31/2004		EXAMINER	LIU, ANDREA
KEVIN R SPIVAK MORRISON & FOERSTER LLP 2000 PENNSYLVANIA AVENUE NW WASHINGTON, DC 20006-1888			ART UNIT	PAPER NUMBER
			2825	

DATE MAILED: 03/31/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/675,343	VOGL, THOMAS	
	Examiner	Art Unit	
	Andrea Liu	2825	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 05 January 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-7 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-7 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 - a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) Interview Summary (PTO-413) Paper No(s) _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION***Response to Arguments***

Applicant's arguments dated 5 January 2004 have been reviewed and have been found to be unpersuasive by the Examiner.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-7 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Applicant's added limitation "wherein the determining of the critical regions is defined by height and spacing of the coating to be etched off" is not enabled in Applicant's specification.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Liebmann U.S. Patent No. 5,553,274.

As to claim 1, the Liebmann reference discloses a method for recognizing and rectifying etch-critical regions that comprises the steps of accessing the data structure of a layout (figure 15, column 6 lines 17-33); accessing the data structure of the configuration elements arranged in a plane of the layout (column 5 line 61 to column 6 line 33; and using the measures of a program procedure, determining the critical regions between the configuration elements, modifying the critical regions and visually displaying the modified critical regions (column 5 line 61 to column 6 line 33).

As to claim 2, Liebmann teaches integrating the modified critical regions into existing data structure of the layout in a method for recognizing and rectifying etch-critical regions (column 6 lines 34-49).

As to claims 3, Liebmann discloses a method according to the first claim, wherein the determining of the critical regions is defined by height and spacing of the coating to be etched off (column 6 line 61 to column 7 line 11).

As to claim 4, the reference shows the adjustability of the critical region by an admissible, fabrication-oriented, minimal spacing between the configuration elements (column 6 line 61 to column 8 line 8) in a method of recognizing and rectifying etch-critical regions.

As to claims 5-7, Liebmann discloses the method according to claim 4, wherein the critical regions between the configuration elements are filled out by polygons so that the critical regions between the configuration elements are avoided, wherein the polygons of the critical

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regions are limited given possible superimpositions of the configuration elements, and wherein the polygons of the critical regions are enlarged slightly so that the edges of the polygons superimpose with the edges of the configuration elements (column 4 lines 34-63, column 6 line 61 to column 8 line 8).

Remarks

Applicant's amendment added the limitation "wherein the determining of the critical regions is defined by height and spacing of the coating to be etched off." This limitation is not suggested, disclosed, or enabled in Applicant's specification. Therefore, for examining purposes, this limitation is not treated and claims 1-7 stand rejected based on the prior art already of record.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea Liu whose telephone number is (703) 305-4041.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1901.

Andrea Liu

Patent Examiner



A. M. Thompson
PRIMARY EXAMINER
TECHNOLOGY CENTER 2800